

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GREGORY MOYE,

Petitioner,

DC:USNY
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SUSAN I. SCHULTZ,

Respondent.

04 Civ. 2971 (JSR)

ORDER

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JED S. RAKOFF, U.S.D.J.

On May 30, 2006, the Honorable Debra Freeman, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter recommending (1) that Moyer's petition for a writ of habeas corpus pursuant to 28 U.S.C. §§ 2241 and 2254 be denied on the ground that it is barred by the applicable statute of limitations; (2) that his due process claims be dismissed as non-cognizable or moot; and, accordingly, (3) that his motion for bail be denied. Neither petitioner nor respondent has filed any objections to the Report and Recommendation, and, for that reason alone, each has waived any right to further appellate review. See Thomas v. Arn, 474 U.S. 140, 147-48 (1985); Mario v. P & C Food Markets, Inc., 313 F.3d 758, 766 (2d Cir. 2002); Spence v. Superintendent, Great Meadow Corr. Facility, 219 F.3d 162, 174 (2d Cir. 2000).

Accordingly, the Court hereby adopts the Report and Recommendation, and, for the reasons therein, dismisses Moyer's petition in its entirety and denies his accompanying motion for bail. Additionally, because the petitioner has not made a substantial showing of the denial of a constitutional right, the Court declines

to issue a Certificate of Appealability under 28 U.S.C. § 2253.

Further, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from the Court's order would not be taken in good faith.

Clerk to enter judgment.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
July 19, 2006